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May 3, 2022

MEMO ENDORSED

VIA ECF

The Honorable Katherine Polk Failla, USDJ
United States District Court for the Southern District of New York
40 Foley Square, New York, New York 10007

Re: *Blue Cross & Blue Shield Assoc. Nat'l Emp. Benefits Committee v. Allianz Global Investors U.S. LLC et al.*, 20-cv-7606 (KPF)

Dear Judge Failla:

In connection with the pre-conference letter filed on May 3, 2022 by Defendant Aon Investments USA Inc. ("Aon") regarding the discovery dispute concerning Plaintiff Blue Cross and Blue Shield Association National Employee Benefits Committee's ("NEBC") refusal to comply with the Court's Order (Dkt. 140) requiring it to apply specified search terms to the files of ten priority custodians, Aon respectfully requests leave to submit a redacted version of the pre-conference letter and certain exhibits to that letter, and to file certain additional exhibits to that letter under seal pursuant to Section IX of the Stipulated Amended Protective Order (the "Protective Order," Dkt. 79) and Rule 9(B) and (C) of the Court's Individual Rules of Practice in Civil Cases. Specifically, Aon seeks to leave to submit a redacted version of the following exhibits, each filed in connection with Aon's pre-conference letter:

Exhibit 4: April 1, 2022 Letter from Aon to NEBC, which includes excerpts from documents that NEBC has produced. These excerpts come from documents with Bates numbers NEBC0675439 and NEBC004055.

Exhibit 10: March 9, 2022 Letter from Aon to NEBC, which includes excerpts from a document that BlueCross and BlueShield of Vermont has produced and designated "Confidential." These excerpts come from a document with Bates number BCBSVT0009567.

Additionally, Aon seeks to seal the following exhibits, each filed in connection with

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Aon's pre-conference letter:

Exhibit 6: Document produced by NEBC with Bates number NEBC0675439, which NEBC has designated "Confidential."

Exhibit 7: Document produced by NEBC with Bates number NEBC0683156, which NEBC has designated "Confidential."

Exhibit 8: Document produced by NEBC with Bates number NEBC0682176, which NEBC has designated "Confidential."

Exhibit 9: Document produced by NEBC with Bates number NEBC0681129, which NEBC has designated "Confidential."

The attached pre-conference letter and Exhibits 4 and 6-10 include or discuss material that has been designated Confidential under the Protective Order in this case. The Protective Order permits the parties to designate certain categories of sensitive information produced in the course of discovery as "Confidential" or, in the case of extremely sensitive information, "Highly Confidential," with all such material referred to collectively as "Protected Material." Protective Order § 4. The Protective Order requires that "A Party or Non-Party submitting any Protected Material to the Court in the Related Actions (whether in support of a pleading or motion, at a hearing, or in connection with any other pre-trial proceeding) must file the Protected Material in redacted form or under seal to the full extent permitted by the Local Rules of the U.S. District Court for the Southern District of New York and Judge Failla's Individual Practices in Civil Cases." *Id.* § IX.A.

The ordinary "presumption of access is entitled only to modest weight" here, "because the documents at issue were submitted in connection with a motion to compel discovery, rather than a dispositive motion, and because resolution of that discovery motion does not require the Court to analyze the merits of the parties' claims or defenses." *Royal Park Invs. SA/NV v. Deutsche Bank Nat'l Tr. Co.*, 2016 WL 7188795, at *2 (S.D.N.Y. Dec. 7, 2016) (citations omitted).

Accordingly, Aon requests leave to file the pre-conference letter with redactions, to file Exhibits 4 and 10 with redactions, and to file Exhibits 6-9 under seal.

Respectfully submitted,

/s/ *Julia M. Beskin*

Julia M. Beskin

cc: Counsel for Plaintiff (by ECF)

Application GRANTED. Defendant shall be permitted to file the materials specified above either in redacted form or under seal. The Clerk of Court is directed to terminate the pending motion at docket entry 168.

Dated: May 4, 2022
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE